

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 RHONDA S. HARMON,

9 Plaintiff(s),

10 v.

11 CAROLYN W. COLVIN,

12 Defendant(s).
13

2:12-CV-1419 JCM (GWF)

14 **ORDER**

15 Presently before the court are the report and recommendation of Magistrate Judge Foley.
16 (Doc. # 27). No objections have been filed even though the deadline for filing objections has passed.

17 Upon considering plaintiff Rhonda Harmon's motion to remand to the Social Security
18 Administration (doc. # 22), Magistrate Judge Foley concluded that the administrative law judge
19 should have obtained vocational expert testimony prior to finding that plaintiff is not disabled. Thus,
20 Magistrate Judge Foley recommended that plaintiff's motion to remand be granted.

21 This court "may accept, reject, or modify, in whole or in part, the findings or
22 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to
23 a magistrate judge's report and recommendation, then the court is required to "make a de novo
24 determination of those portions of the [report and recommendation] to which objection is made."
25 28 U.S.C. § 636(b)(1).

26 Where a party fails to object, however, the court is not required to conduct "any review at all
27 . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
28

1 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate
2 judge's report and recommendation where no objections have been filed. *See United States v.*
3 *Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the
4 district court when reviewing a report and recommendation to which no objections were made); *see*
5 *also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's
6 decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any
7 issue that is not the subject of an objection."). Thus, if there is no objection to a magistrate judge's
8 recommendation, then this court may accept the recommendation without review. *See, e.g.,*
9 *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation
10 to which no objection was filed).

11 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
12 whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation
13 and underlying briefs, this court finds good cause appears to ADOPT the magistrate judge's findings
14 in full.

15 Accordingly,

16 IT IS HEREBY, ORDERED, AND DECREED that the report and recommendation of
17 Magistrate Judge Foley (doc. # 27) are ADOPTED in their entirety.

18 IT IS FURTHER ORDERED that plaintiff's motion to remand (doc. # 22) is GRANTED,
19 and that this matter is remanded to the Social Security Administration for further administrative
20 proceedings, including the obtaining of vocational expert testimony, to determine whether there are
21 sedentary jobs available in sufficient numbers in the national economy that plaintiff can perform in
22 light of the environmental restrictions on her residual functional capacity.

23 IT IS FURTHER ORDERED that defendant's cross-motion to affirm (doc. #25) is DENIED.

24 DATED April 8, 2014.

25
26 
27 UNITED STATES DISTRICT JUDGE
28